

1 GERSON A. ZWEIFACH (admitted *pro hac vice*)
 2 PAUL B. GAFFNEY (admitted *pro hac vice*)
 3 DAVID I. BERL (No. 211761)
 4 JESSAMYN S. BERNIKER (admitted *pro hac vice*)
 5 THOMAS S. FLETCHER (No. 262693)
 6 WILLIAMS & CONNOLLY LLP
 7 725 Twelfth Street, NW
 Washington, DC 20005-5900
 Telephone: (202) 434-5000
 Facsimile: (202) 434-5029

MATTHEW D. POWERS
 (Bar No. 104795)
 VERNON M. WINTERS
 (Bar No. 130128)
 GREGORY D. HULL (Bar No. 57367)
 AARON Y. HUANG (Bar No. 261903)
 WEIL, GOTSHAL & MANGES LLP
 Silicon Valley Office
 201 Redwood Shores Parkway
 Redwood Shores, CA 94065
 Telephone: (650) 802-3000
 Facsimile: (650) 802-3100

8 JEFFREY E. FAUCETTE (No. 193066)
 TAYLOR & COMPANY LAW OFFICES, LLP
 One Ferry Building, Suite 355
 San Francisco, CA 94111
 Telephone: (415) 788-8200
 Facsimile: (415) 788-8208

DAVID I. GINDLER (Bar No. 117824)
 JASON G. SHEASBY (Bar No. 205455)
 RAYMOND LAMAGNA
 (Bar No. 244821)
 IRELL & MANELLA LLP
 1800 Avenue of the Stars, Suite 900
 Los Angeles, CA 90067-4276
 Telephone: (310) 277-1010
 Facsimile: (310) 203-7199

12 ELLIOT M. OLSTEIN (admitted *pro hac vice*)
 CARELLA, BYRNE, CECCHI, OLSTEIN,
 BRODY & AGNELLO, P.C.
 Five Becker Farm Road
 Roseland, NJ 07068-1739
 Telephone: (973) 994-1700
 Facsimile: (973) 994-1744

Additional Counsel Listed After Signature Page

16 Attorneys for Plaintiff,
 17 MEDIMMUNE, LLC

Attorneys for Defendant,
 PDL BIOPHARMA, INC.

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN JOSE DIVISION

22 MEDIMMUNE, LLC,

Case No. CV 08 5590 JF

23 Plaintiff,

Action Filed: December 16, 2008

24 v.

**STIPULATION AND [PROPOSED]
 ORDER APPOINTING SPECIAL
 MASTER MARTIN QUINN**

25 PDL BIOPHARMA, INC.,

26 Defendant.

1 Pursuant to Federal Rule of Civil Procedure 53, and with the consent of the plaintiff and
 2 counterclaim defendant, MedImmune, LLC (“MedImmune”), and the defendant and counterclaim
 3 plaintiff, PDL BioPharma, Inc. (“PDL”), the Court hereby appoints Martin Quinn, Esq. as Special
 4 Master to assist the Court with discovery in this litigation (hereinafter “Special Master”).

5 The Special Master is hereby appointed pursuant to Rule 53(a)(1) to perform duties
 6 consented to by the parties (Rule 53(a)(1)(A)), and to address pretrial discovery matters that
 7 cannot be addressed effectively and timely by an available district judge or magistrate judge of the
 8 district (Rule 53(a)(1)(C)).

9 Pursuant to Rule 53(a)(2) and 53(b)(3), the Special Master shall promptly file an affidavit
 10 with this Court stating that, if true, he has no relationship to the parties, counsel, action, or Court
 11 that would require disqualification of a judge under 28 U.S.C. section 455. During the course of
 12 these proceedings, the Special Master and the parties shall notify this Court immediately if they
 13 become aware of any potential grounds that would require disqualification.

14 Pursuant to Rule 53(a)(3), the Court has considered the fairness of imposing the likely
 15 expenses of the Special Master on the parties. The Court believes that the appointment and use of
 16 the Special Master will materially advance the litigation, thereby achieving considerable cost-
 17 saving to all parties. Moreover, the Court notes that the parties have consented to the Special
 18 Master’s appointment and have agreed to pay the compensation ordered herein. The Court will
 19 protect against unreasonable expenses and delay through regular communication with the Special
 20 Master.

21 Pursuant to Rule 53(b)(1) the Court gave all parties to the proceedings notice of its intent
 22 to appoint the Special Master and an opportunity to be heard with respect to such appointment
 23 before issuing this Order.

24 Pursuant to Rule 53(b)(2), the Court hereby directs the Special Master to proceed with all
 25 reasonable diligence in performing his duties.

26 Pursuant to Rule 53(b)(2)(A), the Special Master shall assist the Court with management
 27 of discovery pursuant to the Federal Rules of Civil Procedure, and in particular Rule 26 and with
 28 adjudication of all discovery motions and disputes between the parties in this matter pursuant to

1 Rules 37 or 45. All currently pending discovery motions and disputes between the parties are
 2 hereby referred to the Special Master pursuant to this Order.

3 The Special Master shall have the authority provided in Rule 53(c) and 53(d).

4 The procedural requirements contained in this Court's Local Rules and/or Pretrial Orders
 5 shall govern any motion practice before the Special Master subject to the Special Master's
 6 discretion to adopt reasonable alternative procedural requirements with notice to the parties
 7 thereof.

8 Pursuant to Rule 53(b)(2)(B), the Special Master may communicate ex parte with the
 9 Court at any time. The Special Master shall not communicate ex parte with any party, third party
 10 witness, or counsel for any party or third party.

11 Pursuant to Rule 53(b)(2)(C), the Special Master shall maintain orderly files consisting of
 12 all documents submitted to him by the parties and any of his written orders, findings, and/or
 13 recommendations. Pursuant to Rule 53(e), the Special Master shall file any written orders,
 14 findings, and/or recommendations with the Court via the Court's Electronic Case Filing ("ECF").
 15 Such filing shall fulfill the Special Master's duty to serve his order on the parties.

16 Pursuant to Rule 53(b)(2)(E) and 53(g), the Special Master shall be compensated at an
 17 hourly rate of \$600.00 for his services pursuant to this Order. The Special Master shall not charge
 18 for travel time. The Special Master shall prepare a monthly invoice for his services, which he shall
 19 provide to counsel for the parties. MedImmune and PDL shall each be responsible for paying one-
 20 half of the Special Master's invoice; such invoices shall be paid promptly.

21 Pursuant to Rule 53(f), the Special Master shall report to the Court as directed by the
 22 Court.

23 Pursuant to Rule 53(b)(2)(D) and 53(f), the following procedures shall govern any action
 24 on the Special Master's orders, reports, and/or recommendations: Any party wishing to file
 25 objections to or a motion to adopt or modify the Special Master's orders, reports, and/or
 26 recommendations must file such objections or motion with the Court within seven (7) days from
 27 the day the Special Master filed the order, report, and/or recommendation via ECF. Any Order
 28 issued by the Special Master shall remain in effect pending any such objection or motion, unless

1 the Special Master holds otherwise. A party may, however, move to stay the Special Master's
2 order pending review by the Court. The party filing the objection or motion shall submit with
3 such objection or motion any record necessary for the Court to review the Special Master's order,
4 report, and/or recommendation, including any transcripts of proceedings before the Special Master
5 and any documents submitted by the parties in connection with the Special Master's order, report,
6 and/or recommendation. Failure to provide the record shall constitute grounds for the Court to
7 overrule the objection or deny the motion. No such objection or motion may be filed by any party
8 after seven (7) days from the day the Special Master filed the order, report, and/or
9 recommendation via ECF. Pursuant to the parties' stipulation, the Court shall review findings of
10 fact made or recommended by the Special Master for clear error. The Court shall review de novo
11 any conclusions of law made or recommended by the Special Master. The Court will set aside the
12 Special Master's ruling on a procedural matter only for an abuse of discretion.

13 Pursuant to Rule 53(f)(1), in acting on an order, report, or recommendations of the Special
14 Master, the Court shall afford each party an opportunity to be heard and, in its discretion, may
15 receive evidence, and may adopt or affirm; modify; wholly or partly reject or reverse;
16 resubmit to the Special Master with instructions; or make any further orders it deems appropriate.

17 IT IS SO STIPULATED.

18 DATED: August 6, 2010.

WILLIAMS & CONNOLLY LLP

19 */s/ Jessamyn S. Berniker*
GERSON A. ZWEIFACH
PAUL B. GAFFNEY
DAVID I. BERL
JESSAMYN S. BERNIKER
THOMAS S. FLETCHER

23 Attorneys for Plaintiff
MEDIMMUNE, LLC

24 DATED: August 6, 2010.

WEIL, GOTSHAL & MANGES LLP

26 */s/ Vernon M. Winters*
MATTHEW D. POWERS
VERNON M. WINTERS
GREGORY D. HULL
PETER SANDEL
REBECCA FETT

1 AARON Y. HUANG
2
3
4
5

6 Attorneys for Defendant
7 PDL BIOPHARMA, INC.
8
9

10 PURSUANT TO STIPULATION, IT IS SO ORDERED.
11
12 DATED: August 9, 2010.

13 
14 THE HONORABLE JEREMY FOGEL
15 UNITED STATES DISTRICT COURT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28

11 *Additional Counsel:*

12 T. RAY GUY (admitted pro hac vice)

13 ray.guy@weil.com

14 WEIL, GOTSHAL & MANGES LLP

15 200 Crescent Court, Suite 300

16 Dallas, TX 75201

17 Telephone: (214) 746-7700

18 Facsimile: (214) 746-7777

19 PETER SANDEL (admitted pro hac vice)

20 peter.sandel@weil.com

21 REBECCA FETT (admitted pro hac vice)

22 rebecca.fett@weil.com

23 WEIL, GOTSHAL & MANGES LLP

24 767 Fifth Avenue

25 New York, NY 10153

26 Telephone: (212) 310-8000

27 Facsimile: (212) 310-8007

28 P. CHRISTINE DERUELLE (pro hac vice)

29 christine.deruelle@weil.com

30 WEIL, GOTSHAL & MANGES LLP

31 1395 Brickell Avenue, Suite 1200

32 Miami, FL 33131

33 Telephone: (305) 577-3100

34 Facsimile: (305) 374-7159

35 Attorneys for Defendant,
36 PDL BioPharma, Inc.

37 Ag
38